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OMSAPC Advisory Circular

SUBJECT: Application Format for Certification of 1982 Model Year Light-Duty Motor Vehicles

I. Purpose

The purpose of this advisory circular (A/C) is to announce the availability of the "Application Format for Certification of Light-Duty Motor Vehicles--1982 Model Year" and to identify changes in content from the 1981 model year application format. This A/C also sets out the procedures EPA will follow in the treatment of information submitted in applications for certification that is claimed to be entitled to confidential treatment.

II. Background

A. 40 CFR 86.081-21 requires manufacturers to submit an application for a certificate of conformity to Federal regulations governing exhaust and evaporative emissions from new gasoline-fueled and diesel light-duty vehicles and trucks. 40 CFR 86.079-23 specifies which data and emission test results will enable the EPA to determine if the vehicle for which a certificate of conformity is sought conforms to the applicable regulations. To facilitate the submission and processing of applications for certification, EPA makes available to interested parties a format for supplying to EPA the information necessary for the Administrator to make decisions regarding the certification of light-duty motor vehicles and trucks. Information specified in the application format may be supplied to EPA in a manner different from that which is suggested. However, manufacturers are strongly encouraged to develop their 1982 model year application in accordance with the format to facilitate the review process.

B. Once emission testing for an engine family/evaporative emission family combination is complete and the application for certification is in final form, two complete copies are to be submitted as follows:

1. The original copy of the application (as well as all subsequent revisions, which should be submitted promptly) is to be forwarded to:

Director
Certification Division
Mobile Source Air Pollution Control
U.S. Environmental Protection Agency
2565 Plymouth Road
Ann Arbor, Michigan 48105



2. The second copy of the application, marked "Duplicate," is to be submitted to:

Director
Manufacturers Operations Division (EN-340)
U.S. Environmental Protection Agency
401 M. Street, S.W.
Washington, D.C. 20460

This duplicate copy should contain all revisions made up to the time of submittal but need not contain the information specified by sections 12.00.00.00 and 14.00.00.00 of the application format.

3. Submission of the copies of the application for certification in accordance with paragraphs II.B.1 and 2, above, has no effect on the submission of a copy of the application for reduction to microfiche and distribution through the National Technical Information Service (NTIS) in accordance with the procedures set out in A/C No. 66. Manufacturers wishing to participate in that program should continue to observe the guidelines set out in section E of A/C No. 66 regarding the preparation and submission of a copy of the application for certification for distribution through NTIS.

C. The EPA General Counsel has issued Class Determination 2-80 which sets forth the treatment which the Agency will accord information submitted in applications for certification of 1982 model year light-duty motor vehicles. Class Determination 2-80 is attached to this A/C (Attachment B), and therefore, issuance of this A/C constitutes official notice to light-duty motor vehicle manufacturers of the contents of the Class Determination and of the Agency's intention to act in accordance with the provisions of that document.

D. Copies of the application format for certification of 1982 model year light-duty motor vehicles may be obtained from the Certification Division at the address given in paragraph II.B.1.

III. Applicability

The provisions of this A/C are applicable to 1982 model year light-duty motor vehicles.

IV. Discussion

A. Format Structure--The 1982 model year format is in two sections--five explanatory chapters and an appendix. As for the 1980 and 1981 model years, the format groups together all introductory material and narrative instructions in the first five chapters. The format's appendix contains examples of recommended hard copy tables and forms, whose layouts arrange required information in a manner which facilitates EPA review. The information

delineated in the tables is either specifically required by regulation or has been determined necessary to support decisions which the regulations require OMSAPC to make. Guidelines for forms which will be used for computer input will be issued as a supplement to the application format.

B. Impact of Abbreviated Certification Review on Application Format-- At this time, the Certification Division expects to process all 1982 model year engine and evaporative emission families using the abbreviated certification review procedures introduced during the 1981 model year and described by the Certification Division Director's letter to industry of December 13, 1979. These procedures (1) put an increased emphasis on onsite audits of manufacturers' certification programs; (2) transfer responsibility for making many certification-related decisions from EPA to industry; and (3) require the manufacturer, rather than EPA, to retain and maintain the official copy of the developing, incomplete application for certification until it is ready to be submitted in final form.

Most of the changes incorporated into the 1982 model year format are intended to make it consistent with these new procedures. The portions of the format most markedly affected by these revisions concern maintenance and submission of the application (pp. 1-2, 1-3); revision of the application (pp. 2-3, 2-4; Appendix, p. 25); documentation of carryover of data (pp. 2-6, 2-7); documentation of test vehicle selections (pp. 2-7; Appendix, pp. 11-12); use of preliminary engineering reports to document test vehicle malfunctions (p. 28); contents of vehicle books (pp. 5-25, 5-26, 5-27); and documentation of final status of test vehicles (p. 5-28; Appendix, pp. 28, 28-A). A detailed listing of these changes is set forth in Attachment A.

C. Altitude Performance Adjustments--The Agency published, in the January 24, 1980 Federal Register, a Notice of Proposed Rulemaking concerning submission of altitude performance adjustments for motor vehicles. In anticipation that this regulation will become a final rule applicable to the 1982 model year, this format specifies information requirements based on the proposed rule (see p. 4-2, item 06.02.04.00; p. 5-19, item 10.07.03.10; p. 5-22, item 10.10.24.00). Any changes incorporated into the final rulemaking will be evaluated and appropriate modification made to the affected portions of the format.

D. Indexing, Sequencing, and Referencing--These terms refer to techniques for labeling, grouping, and reducing application information developed jointly by EPA and industry and first used in the 1980 model year application format. These concepts have been incorporated into the 1982 model year format and are fully described on pages 1-3 to 1-5 of chapter 1.

E. Standardized Engine Family Names--The standardized engine family naming system described by the 1981 model year format has been slightly modified to make its adoption possible for all manufacturers (see Appendix, pp. 66-74).



F. Data Form Submissions--Procedures for handling of Certification Division data forms will be issued in a special data forms supplement to the application format.

G. Differences Between 1981 and 1982 Model Year Formats--Specific changes to the information requested in the 1981 model year format are set out in Attachment A.

Office of Mobile Source Air Pollution Control

Attachments

Attachment A
Changes to Model Year 1981 Light-Duty Motor Vehicle Format

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
Pp. 1-1 to 1-6	Reorganize and revise when necessary. Provide subchapter headings.	Clarify requirements.
P. 1-2	Add section on "Maintenance and Submission of the Application for Certification."	Bring format recommendations into agreement with current Certification Division operations. Stress manufacturer's responsibility for maintaining complete, up-to-date applications.
Pp. 1-3 to 1-5	Revise discussion of indexing, sequencing, and referencing. Prohibit referencing across model years.	Make format recommendations appropriate to current CD operations.
Pp. 1-5 to 1-6	Revise discussion of the "one application for each set of applicable standards" principle to cover waivers and pending high-altitude standards.	Reflect changing regulator requirements.
P. 2-1	Add definition of Evaporative Emission Code.	Correct inadvertent omission from MY81 format.
P. 2-2	Allow abbreviation of standardized engine family names for page numbering purposes.	Clarify requirements.
Pp. 2-3 to 2-4	Modify discussion of "Revising the Application" to (a) eliminate revision cover letter; (b) require the manufacturer to retain at his facility pages removed from application prior to certification; (c) use the certification change request to make all	Reflect changes in policy and procedure.

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
	changes to the application after certification; and (d) delete the requirement for a review block on each page of the application.	
P. 2-5	Redraft section on "Requests for Deviations from Part 86 Requirements."	Clarify requirements.
Pp. 2-5 to 2-6	Redraft last paragraph of section on "Parameters and Tolerances."	Locate all requirements of the "Request for Certificate" (Section 16.00.00.00) in the discussion of that section on pp. 5-27 and 5-28; clarify requirements.
Pp. 2-6 to 2-7	Specify procedures for documenting use of carryover data.	Define procedures appropriate to current CD operations.
P. 2-7	Specify procedures for documenting emission test vehicle selections.	Define procedures appropriate to current CD operations.
P. 2-7	Clarify requirements for preliminary engineering reports to reflect use of Pending Maintenance Telephone Hotline.	Define procedures appropriate to current CD operations.
P. 3-1	Revise discussion of sequencing.	Clarify requirements in accord with current CD operations.
P. 4-2: 06.02.04.00	Add 06.02.04.00, "Altitude Adjustment or Modification Instructions."	Anticipate pending changes to regulations.
P. 4-4	Modify Footnote 1 to expand list of adjustable parameters.	Reflect change to regulations.
P. 4-5: 12.01.05.00, 12.02.02.00, and 12.02.03.00	Delete Vehicle Test Data Log Sheet, Exhaust Emission Deterioration Factors, and Light-Duty Deterioration Factor Input Sheet.	Eliminate duplicative requirements.

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
P. 4-5: 14.00.00.00	Eliminate Forecast of Test Vehicle Availability.	Reflect change in policy described in Advisory Circular No. 54A.
P. 4-5: 16.02.00.00	Replace "Emission Data Summary" with "Summary of Test Vehicle Status."	Eliminate redundant requirements; modify requirements to reflect current CD operations.
P. 4-5: 16.04.03.00	Add "Quality Control Information."	Establish new item to separate production tolerances from quality control information.
P. 5-1: 01.00.00.00	Require manufacturers who have not certified family combinations in 1981 to submit Section 01.00.00.00 (Communications) as soon as available.	Clarify requirements.
P. 5-3: 03.00.00.00	Require clear indication of use of different lubricants in durability-data and emission-data vehicles.	Clarify requirements.
P. 5-3: 04.00.00.00	Specify in the description of the manufacturer's test facility the contact person for laboratory correlation and quality control.	Facilitate inquiry into and resolution of issues regarding lab-to-lab correlation.
P. 5-10	Modify Footnote 1 to expand list of adjustable parameters.	Reflect change to regulations.
P. 5-12	Expand specification of 09.03.05.01 (Purge System-Configuration and Method of Operation).	Make requirements consistent with Advisory Circular No. 59, Paragraph E.1.c.
P. 5-12: 09.05.00.00 and 09.06.00.00	Add 09.05.00.00 (Evaporative Emission Family Test Vehicle Requirements) and 09.06.00.00 (Justification of Evaporative Emission Family Test Vehicle Selections).	Standardize method of documenting test vehicle selections.

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
P. 5-13	Modify Footnote 1 to expand list of adjustable parameters.	Reflect change to regulations.
P. 5-15: 10.02.25.04	Require description of all AECD-like activity of electronic control devices including explanation of default logic employed when sensors fail.	Clarify requirements.
P. 5-16: 10.03.02.11	Add phrase "if applicable."	Clarify requirement.
P. 5-19: 10.07.03.10	Add Item 10.07.03.10 on altitude compensation devices for EGR system.	Anticipate establishment of high-altitude standards.
P. 5-22: 10.10.24.00	Require description of engine code specific adjustments and/or modifications to enable compliance with pending high-altitude standards.	Anticipate pending regulatory changes.
P. 5-22: 10.11.00.00, 10.12.00.00, and 10.13.00.00	Add "Engine Family Test Vehicle Requirements," "Durability-Data Vehicle Selection Worksheets," and "Emission-Data Vehicle Selection Worksheets."	Standardize documentation of test vehicle selections.
P.5-24: 10.41.00.00, 10.42.00.00, and 10.43.00.00	Add "Engine Family Test Vehicle Requirements," "Durability-Data Vehicle Selection Requirements," and "Emission-Data Vehicle Selection Worksheets."	Standardize documentation of test vehicle selections.
P. 5-25: Vehicle Book Requirements, Item 1	Change requirement from Vehicle Information Data Sheet to Vehicle Specification Report.	Clarify that requirement is the output report, not the input form.
P. 5-25: Vehicle Book Requirements, Item 8	Indicate need for submission of test data on catalyst batches.	Clarify requirements.

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
P. 5-26: Vehicle Book Requirements, Item 9	Specify presence on test vehicle of add-on standard and optional equipment.	Provide information to assure that the test vehicle is within spe- cifications.
P. 5-26: Vehicle Book Requirements, Item 10	Specify test vehicle's measured curb and drive axle weights.	Provide information needed to assure that the test vehicle is within specifi- cations.
P. 5-26: Vehicle Book Requirements, Item 12	Request that odometer correction factor and engine operation time at the initiation of the preconditioning trip on the dynamometer be entered in Comments of the Manufacturer's Test Data Sheet.	Standardize reporting procedures.
P. 5-26: Vehicle Book Requirements, Item 13	Change requirements from Manufacturer's Test Data Sheet to Manufacturer's Emission Test Data Report.	Clarify that requirement is output report, not input form.
P. 5-27: Vehicle Book Requirements	Request engine compart- ment drawings and suggest vehicle book filing procedure.	Clarify requirements and standardize record storage procedures.
P. 5-28: Request for Certificate	Add discussion of new Summary of Test Vehicle Status Form.	Clarify requirements.
Pp. 5-28 to 5-29	Redraft Items 5 and 6.	Eliminate inconsistency between sections of format and Advisory Circular No. 65-1; clarify requirements.
Appendix Pp. 11-12	Add "Emission Test Vehicle Requirements" form and accompanying notes.	Standardize documentation of test vehicle selections.
Appendix P. 18	Revise recommended format for vehicle description information (10.10.00.00).	Bring format into conformity with pages 5-20 to 5-22.

<u>Section Changed</u>	<u>Nature of Change</u>	<u>Reason for Change</u>
Appendix Pp. 26-27	Revise Certification Change Request Form.	Standardize documenta- tion of running change information.
Appendix P. 28	Add "Summary of Test Vehicle Status" form.	Document the ultimate status of all test vehicles selected to represent each engine family/evaporative emission family tendered for certification.
Appendix Pp. 66-74	Revise standardized engine family nomenclature to a 12-character format.	Make standardized nomenclature useable by all manufacturers.

CLASS DETERMINATION 2-80

CONFIDENTIALITY OF BUSINESS INFORMATION SUBMITTED IN APPLICATIONS
FOR CERTIFICATION OF LIGHT-DUTY MOTOR VEHICLES FOR MODEL YEAR 1981

On March 31, 1977, the General Counsel issued Class Determination 2-77 "Confidentiality of Business Information Submitted in Application for Light-Duty Motor Vehicle Certifications Through Model Year 1978." On May 12, 1977, the General Counsel issued Class Determination 4-77 "Confidentiality of Business Information Submitted in Applications for Light-Duty Motor Vehicle Certifications Model Year 1979." On August 14, 1978, I issued Class Determination 3-78 "Confidentiality of Light-Duty Motor Vehicles for Model Year 1980." The Office of Mobile Source Air Pollution Control (MSAPC) has now completed preparation of the application for certification of light-duty motor vehicles for model year 1982. MSAPC has requested that I issue a class determination on the confidentiality of the information to be contained in the 1982 applications for certification.

Under 40 CFR 2.207 I have authority to issue class determinations concerning the entitlement of business information to confidential treatment. In the case of applications for certification of light-duty motor vehicles for model year 1982, I have found:

(1) EPA will possess large numbers of applications for certification of light-duty motor vehicles for model year 1982.

(2) The information contained in the applications is of the same character with only slight modifications that can be dealt with individually. It is proper to treat all of the applications as in the same class for purposes of this Determination.

(3) A class determination will serve a useful purpose in that it will eliminate the necessity of clearing all of the information in such application prior to its being made available to the public, and it will serve as guidance for manufacturers submitting applications.

Only small changes have been made in the format for the application for certification from 1981 to 1982. The changes apply only to the amount of detail asked under specific items in the format. The character of the information requested with respect to its confidential treatment has not changed. Accordingly, I have determined that the information contained in applications for certification of light-duty motor vehicles for model year 1982 is entitled to confidential treatment as set forth in Class Determination 3-78 for the reasons specified in the Determination (copy attached).

8/21/80
Date

Deputy General Counsel

CLASS DETERMINATION 3-78

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(2) The information contained in the applications is of the same character with only slight modifications that can be dealt with individually. It is proper to treat all of the applications as in the same class for purposes of this determination.

(3) A class determination will serve a useful purpose in that it will remove the necessity of clearing all of the information in each application prior to its being made available to the public.

For the 1980 model year, MSAPC has made changes in the format of the application for certification; however, the substance of the application remains essentially the same as in past years. The new format is divided into 16 sections each with subsections. This determination refers to these sections or subsections by number and title.

EPA may withhold information from disclosure under the Freedom of Information Act if the information falls within one of the exemptions of the Act. One of these exemptions is for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552(b)(4)). The information contained in the application for certification is clearly commercial or financial information. The real issue is whether the information is exempt from disclosure as "trade secrets" or is otherwise "confidential" within the meaning of 5 U.S.C. 552(b)(4).

Before EPA may conclude that information in an application for certification is exempt from disclosure as trade secret or confidential information, the Agency must find that the information is in fact maintained in confidence by the business and is not publicly available. If it is not maintained in confidence or is publicly available, it is not entitled to confidential treatment, and EPA must disclose the information.

Information that has been kept confidential and has not been made public in any way may be entitled to confidential treatment under 5 U.S.C. 552(b)(4) if it meets one of the tests set out in National Parks & Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974). Under Morton, commercial or financial information may only be withheld from disclosure if disclosure by EPA would be likely: (1) to impair the ability of the Government to obtain necessary information in the future or (2) to cause substantial harm to the competitive position of the person who submitted it to the Government. The first test is not applicable to the information in applications for certification because this information is not voluntarily submitted, and EPA's ability to obtain it would not be harmed by disclosure (40 CFR 2.208(e)(2)). The second test is applicable if disclosure of specific information would cause substantial harm to the competitive position of the manufacturer submitting an application.

In keeping with the Class Determination 2-77, I have determined that the information in the applications for certification for light-duty motor vehicles for model year 1980 will be treated as follows:

I. I have determined that the information set forth below is never entitled to confidential treatment because it is generally available to the public or competitors and because disclosure would not be likely to cause any harm to the competitive position of any manufacturer. Even if a manufacturer makes a claim for confidential treatment concerning this information, it will be denied.

A. All information in Section 01 "Communications."

B. All information in Section 02 "Statement of Business Confidentiality" except substantiating information (see Part III of this Determination).

C. All information in Section 04 "Facility and Equipment."

D. All information in Section 05 "Test Procedures."

E. All information in Section 14 "Test Schedule Forecast."

In addition, any data which concerns actual emissions from vehicle models or prototype test vehicles is never entitled to confidential treatment. Under section 208 of the Clean Air Act (42 U.S.C. 1542), "emission data" are not entitled to confidential treatment and must be released at any time. Any claim for confidential treatment of emission data will be denied.

II. I have determined that the information set forth below may be entitled to confidential treatment until the date on which the vehicle model in question is introduced into the public market. This information will only be given confidential treatment if the manufacturer (1) asserts that the information is entitled to confidential treatment, (2) has not waived or withdrawn that assertion, and (3) can show, to EPA's satisfaction, that the manufacturer has maintained the information in confidence, the information cannot be readily obtained by others by legitimate means, and disclosure of the information to the public prior to model introduction would be likely to cause substantial harm to the manufacturer's competitive position.

- A. All information in Section 03 "Fuels and Lubricants."
- B. All information in Section 06 "Maintenance and Warranty."
- C. All information in Section 07 "Label Format."
- D. All information in Section 08 "General Technical Description" except subsection 08.08.00.00 "Catalyst" (see part III of this Determination).
- E. All information in Section 09 "Evaporative Emission Family Description" except subsection 09.04.00.00 "Evaporative emission family sales" (see part III of this Determination).
- F. All information in Section 10 "Engine Family Descriptions" except subsections 10.07.05.00 "Catalyst Features," 10.08.00.00 "Projected engine family sales," and 10.10.25.00 "Projected sales" (see part III of this Determination).
- G. All information in Section 11 "Starting and Shifting Schedules."
- H. All information in Section 12 "Vehicle Books."
- I. All information in Section 13 "Evaporative Emission Control Deterioration Program."
- J. All information in Section 15 "Revisions."
- K. All information in Section 16 "Request for Certificate."

Prior to introduction of the vehicle model to the public market, manufacturers keep information about new models secret. Manufacturers submit this information to EPA well in advance of marketing new vehicles. If a manufacturer's competitors were able to acquire this information

prior to introduction, they would be likely to use the information to increase their market share and decrease the market share of the manufacturer. This would be likely to cause substantial competitive harm to the manufacturer. For these reasons, if the manufacturer makes the representations set out above to EPA's satisfaction, I have determined that the information is entitled to confidential treatment until the date of introduction, unless EPA becomes aware that the particular information has become generally available to the manufacturer's competitors.

Because the information consists of engineering details or other information about the vehicle models that the manufacturer plans to market, once the vehicle model in question has been marketed most of the information will be available to the public through examination and testing of the vehicle model. Any information not readily available through examination is background information, the release of which would not be likely to cause substantial competitive harm. If a manufacturer makes a claim of confidential treatment after the date on which the vehicle model in question is introduced to the public market, it will not be honored.

III. There are some types of information in applications that may be entitled to confidential treatment beyond the date on which the model in question has been introduced into the public market. I have determined that the information set forth below may be entitled to confidential treatment both before and after model introduction if

the manufacturer (1) asserts that the information is confidential, (2) has not waived or withdrawn that assertion, and (3) can show, to EPA's satisfaction, that the manufacturer has maintained the information in confidence, the information cannot be readily obtained by others by legitimate means, and disclosure of the information to the public both before and after model introduction would be likely to cause substantial harm to the manufacturer's competitive position. (If the manufacturer is unable to show harm to its competitive position after model introduction but can show harm prior to model introduction, the information will be treated in accordance with part II of this Determination).

A. Substantiating information in Section 02 "Statement of Business Confidentiality" (see part IV of this Determination).

B. All information in subsection 08.08.00.00 "Catalyst."

C. All information in subsection 09.04.00.00 "Evaporative emission family sales."

D. All information in subsections 10.07.05.00 "Catalyst Features," 10.08.00.00 "Projected engine family sales," and 10.10.25.00 "Projected sales."

E. Blueprints that may have been submitted to supplement the engineering information in the various sections of the application.

Each of these types of information may be confidential both before and after model introduction if they are not readily ascertainable from an examination of the vehicle model in question. For example, blueprints may reveal more information than would be apparent from an

engineering examination or test of the vehicle. Information concerning catalysts might reveal the formulation or method of testing a catalyst that would not be available from an analysis of the catalyst in the vehicle. Information concerning projected sales are conjectural and might reveal the manufacturer's marketing projections or strategy for a particular model or its techniques of market analysis or sales and income projections. Information in the substantiation might reveal other confidential information to protect confidential information in the application.

IV. Any information submitted in Section 02 "Statement of Business Confidentiality" to substantiate a claim of confidentiality which pertains to the claim, is not otherwise possessed by EPA, and is claimed as confidential in its own right will not be disclosed by EPA without the consent of the manufacturer unless disclosure is ordered by a Federal court (40 CFR 2.205(c)).

If EPA determines that the disclosure of information from an application for certification under this Determination would be likely to result in substantial competitive harm to the manufacturer, the information is exempt from disclosure under 5 U.S.C. 552(b)(4).

EPA policy requires that any information that is exempt under 5 U.S.C. 552(b)(4) must be maintained in confidence subject to any modification that might arise under 40 CFR 2.205(h) or any other requirement of 40 CFR, Part 2.

August 1, 1978
Date

Deputy General Counsel (A-10)